

Public Works (189) Department.

G.O., No. 1485 W

DATED 14 June 98

[Despatch Abstract.]

Overpayment to a Contractor: Letter from the Supt. of Works, Madras, stating that a suit will be against the Contractor to whom overpayment was made by Mr. Intwien, late Supervisor, ^{on Mr. Intwien's} ~~the~~ Circle, and that he will report later on the S.E. ~~the~~ Circle. Communicated to the S.E. ~~the~~ Circle with direction to file a suit against the Contractor.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

San Francisco late Supervisor.

BACK PAPERS.

FURTHER PAPERS.

No.

St Col h

FROM

SUPP

To

THE

Sir,

Enclosures

x Copy sent
life - original
sent to Dick
on 17/5/98

bodied in

it is stated

made out by

of the real

which Rs 11.

paid to the

it is unders

paid in ex

which show

Contractor

necessary/ &

my a

mult. fac.

old stone deduction may have
 as + the quantity of new

possibly have been $868 + 67$

is quantity added to 41.0.

c) 56.48 units rocks blas

the above Circumstances

ered that only No 881 shown in

either from the Contractor

^bween and not Rs 1133.5.10.

doubtful whether this case

by the 3 years limit & if so

st be filed before the 10th

since the first payment

on the 10th June 1895. I there

It is true, it is not the end of the world

that you will be good money

the opinion of the Advocate

adras whether a Civil Case

le out against the contractors

wien. In the meantime

will be so I tell you

will be sent to you.

As to the cover, the

Pleader regarding this
overpayment.

I have the honour to

Respectfully

Your most obedt. Servt.

Wm. Baddley

Lt. Col. R.E.

Suptg Engineer
III Circle.

July
13/98

From

The Superintending Engineer,
IIIrd Circle,
Bellary.

To

The

Dated

Received

189

Enclosures.

No.

Subject.

Public Works (1898) Department.

Very Urgent

CURRENT No. 4332

4882/98



No 2614e of 23.5.98.

Order

Referred to the Govt.
Pleader, Madras, for favour of
opinion as to whether a civil
case can be made out against
the contractor and Mr. Trutwein.

Wm. Baddley
Secy to Govt. P.W.D.

From The Superintg. Engineer
IIIrd Circle
Bellary

No. 5694

Dated 13-5-98

Received

Registered

Enclosures

Spare copies

SUBJECT.

Overpayment made by
Mr. Trutwein supervisor
Requesting to obtain
the opinion of the advocate
General whether a civil case
can be made out against
the contractor and Mr. Trutwein
in case the contractor
fails to recover the amount

BACK PAPERS.

No.	Date.
8077	5/28/22-3/98

FURTHER PAPERS.

No.	Date.

Government Pleader's Office,

HIGH COURT,

Madras, 8th June 1898.

No.

443

From

E. B. POWELL, Esq.,

GOVERNMENT PLEADER,

Madras,

To

THE Secretary to Government,
Public Works Department.

SIR,

enclosures to be
sent back.

With reference to your Endorsement
No. 2614^x dated the 23rd May 1898, I have
the honor to submit the following:

Opinion.

There is no doubt that a suit will
lie against the contractor for a refund
of monies overpaid to him by mistake
or error. As the suit will have to be
filed at once and I am engaged at
present in my Court work an opinion
in Mr. Gutwein's case will follow
later on.

2. In any case Mr. Gutwein can
only be proceeded against if the Govern-
ment fails to recover the amount

from the Contractor. Mr. Guntwein cannot be sued along with the Contractor. The causes of action against them are perfectly distinct.

3. As regards the remarks in the commencement of the 5th Para of the Superintending Engineer's letter I may mention that the limitation would fall either under Article 94 or Article 95 of the Limitation act and the time would begin to run from the date when the mistake or fraud came to light and the period of Limitation would be 3 years.

I have the honor to be,

Sir,
Your most obedient Servt,

W. W. W.

Govt. Pleader

regarding the amount recovered. The correct be, I think, Rs 881 as shown in 3 of this office No 5826 W. 1898. The difference is due to your adding the value on rock removal which is not disputed (i.e.) 4400 removal at Rs 1/- = 440/- 4190 cft of rock cutting instead of 5648 cft (Mr. at Rs 4/- = 226.

3. The quantity of work cutting viz 5648 Cft and Mr. Johnston Exec. Engineer details below:-

"The Estimate allowed

Stone on edge

1/2 old 1/2 new

Rough

Superintending Engineer's Office,

3RD CIRCLE.

Bellary 13th May 1898.

L. C. Baddley Esq. R.E.,

Superintending Engineer,

IIIRD CIRCLE,

BELLARY.

Chief Engineer

P. W. D.,

City.

Para 4 of your note en -

G. O. No 775 is dated 22-3-98,

that a bill for Rs 1380 was

by Mr Intwien in excess

value of work done, of.

33.5-10 has already been

Contractor. From the above

stood that Mr Intwien has

cess a sum of Rs 1133.5-10

he recovered from the

proceedings if

recover as